P.F. 3 of 95

G. R. S. IX-5]

Previous references. 1894-95

192 .

(L. R.)

Later references.

File No. 106 of 94

Serial Nos. 1-7

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-7

Register ~~Part~~ B for August 1895

SUBJECT.

Appeal of Shivanappa Gowda, Talikere Sub Taluk regarding the Sale of certain lands.

Commissioner

WD 2223—GPE—20,000—14-6-20

RD

Forwarded

BSB

14 15
Subd Dhe. Comdlo

Issue notice all parties concerned except Respt
19/3/95

Precis

A. S. No. of 1894-95

Petn Regd No 54 dated 5th July 1894.

Appellant: Thimmappa Gowda of Talikere Jurisdiction Sub Talk

Noticed to 14 May
Issue Notice to
(1) Thimmappa Gowda, appellant
(2) Sowramma of Talikere - Respondent
14/16/4

On the 4th July 1892 Thimmappa Gowda son of Girigowda Gowda of Talikere applied to the Deputy Amildar of Jurisdiction for the grant of a portion of S. No. 15 in Talikere.

Subbaraya Shanbhog of Talikere applied for the grant of the same number for the year Nandana. The Shanbhog certified that there were no trees or buildings on the land. The Shanbhog's durkhast is dated 2d July 1892.

For the 5th July 1892 on which it was appointed the Deputy Amildar ordered on the Shanbhog Subbaraya's durkhast

S. No. 15 Sentenl 20 cents dry assessh Rs 14-0-0

that the Sagunali Chit
should be issued.

On the 12th August 1892
Thimmappa Gowda applied
for the grant of the Entire
S. No 15.

On 13.8.92 the Shekdar
reported to the Deputy
Amildar that there were
only two small Trees on the
land which were not at
all valuable, that there
was however a small
stone bund (Kutte) which
might be valued at Eight
annas and that the
land might be sold by
auction.

On the 29th August 1892
the Deputy Amildar granted
the land to the first appli-
cant (Thimmappa Gowda)
temporarily for "Ekcal"
cultivation.

On 8.9.92 Thimmappa
Gowda executed a mucha
-lika stating that he has
obtained the land for the
year Nandana.

On 18-10-92 the Dy:
Amildar ordered the Shek
-dar to sell the land
for the year Vijaya,

3 2

and issued an order
accordingly that the land
would be sold by public
auction on the 24th Novem
-ber ~~1892~~ 1892.

The Sale was held on
the 24th November 1892
when the land was knocke
down to Thimmappa
Gowda the highest bidde
for Rs 35.

On the 15th February
1893 the Shekdar report
to the Deputy Amildar that
Thimmappa Gowda the
purchaser had failed to
produce the deposit
amount and that ~~Thim~~
Thimmappa Gowda's ~~ob~~
~~objection~~ objection to pay
was that the land was
not such as could be sold
by public auction as
there were no valuable
trees on ~~the land~~ it and as
the "katte" above referred
to had ~~already~~ been re-
served by Govt four or
five years ago.

On the 27th February
1893 Giriyamma Gowda
father of Thimma Gowda
presented a petition to
the Deputy Amildar

5

9

on which also a portion of the "Katte" stood has been granted for cultivation in the year 1886 after reserving the Katte for Government, and that besides a portion of the said "Katte" there was nothing on land S. No. 15 – either trees or buildings – which would necessitate the sale.

30.7.93 The Deputy Amildar thereupon moved the Shekdar to show him the land, but he did not see it.

On 3-12-1893 the Deputy Amildar issued an Isthihar for the resale of S. No. 15 observing that there were no grounds for the cancellation of the sale inasmuch as the purchaser, to whom ~~the land on which the Katte stood belonged~~ belonged the land on which the Katte stood, had bid for the land (S. No. 15 although the Katte had been included in the Sale

It was announced in the Isthihar that the land would be resold

on the 6th January 1894.

On the 5th January 1894 the Shekdar reported to the Deputy Amildar that Shiramappa Gowda had paid the full amount of purchase money.

In the meantime on the 20th December 1893 one Sankarappa of Turuve Kere Kusba presented a petition to the Deputy Amildar that the Sale of S. No. 15 should be proceeded with and that he was prepared to ~~keep Rs 50 or more if for the land if it was exposed for sale~~ purchase the land for Rs 50 or more.

The Deputy Amildar thereupon ordered that if the first purchaser failed to pay up the purchase money the land would be resold. 20-12-93

on the 5th January 1894 Sankarappa presented another petition to the Deputy Amildar that Shiramappa Gowda had failed to pay the deposit

that the sale of the land was irregular inasmuch as there were no trees on it and the kattle had been reserved by Government about five years ago when the adjacent land on which also the kattle partly stood had been granted to his Son, ~~Hoin~~ and that the Sale should therefore be Cancelled.

On the 17th February 1893 the Arukoar had issued a notice to Thinnappa asking him to produce the full amount of purchase money within three days from the date of notice. The notice also stated that if the amount was not so paid the land would be resold.

On the back of the notice Thinnappa Gowda made a shera on the 31st march 1893 that the land ought not to have been sold and that the Sale ~~2~~ be Cancelled.

On the 16th may 1893 the Shekoar reported to the Deputy Arukoar that from the records it was found that the adjacent land ~~which the kattle was~~

The deputy umbar confirmed the sale of S. No. 15 for Rs 35 on the 10th January 1894 on the 1st Feby 1894 Nimmappa Gouda executed the usual muchalika.

and the balance purchase money in accordance with the rules, that he (Sankarappa) had offered to bid higher even before the sale was confirmed and that the land should therefore be resold.

On the 19th January 1894 the deputy umbar issued an Endorsement to Sankarappa that as Nimmappa had paid up the purchase money the sale was confirmed, and that there were no grounds to oust him from the land who had been in possession thereof ever since he obtained the land for "Ekdal" cultivation.

On the 26th February 1894 the deputy Comrs on perusal of the records observing that the Shekdar had conducted the sale was wrong in not having immediately resold

9

be confirmed.

On 27-5-1894 the Deputy Commr confirmed the 2d. Sale for Rs 163.

On 18-6-94 the purchaser Soorcanna executed the usual muchalika.

The present appeal is against the order of 17-4-94 passed by the Deputy Commr declining to reopen the case.

The following among others are the grounds of appeal:-

1 That he had failed to produce the purchase money because the circumstances justifying the sale ~~were~~ were not found to exist.

For the trees on the land ~~were~~ are not valuable and the Kattu belongs to a different land altogether

2 That he has spent Rs 250 for the improvement of the land after he got possession of it.

3 That the Govt grant lands on Shrotriem tenure if applied for

Whereas in the present
Case much handship
has been caused to him
who has spent considerable money on the land and
prepares to pay full assessment.

Wm

Lubed
11/4/3

the land when the pur-
chaser had failed to
produce the deficit amount
as required by para 23
of Sc 20 of the Rules under
the Land Rev. Code, and
that it was also irregular
to have omitted to resell
the land after the purchaser
had failed to pay up the
full ~~amount~~ amount of
purchase money within
15 days from the date of
sale as required by para
24 of Sc 20 of the Rules under
the Land Rev. Code, ordered
that the land should be
resold in accordance with
the Rules.

⊗ ⊗
On the 24th May
1894 the deputy amildar
reported to the Deputy
Commissioner that the
land was in accordance
with the above order ⊗ resold
when it was knocked
down to one Soorayya
of Talikere for Rs 105,
that the said Soorayya
appeared to be a relation
of the original applicant,
and that the sale might

⊗ ⊗
On the 16th April 94
Veerabhadrappa presented a
petition to the D.C. stating
that he had purchased S.No 65
~~of~~ measuring and paid the
purchase money, that after
he had executed the muchal-
-ika and the land put into
his possession the said land
was ordered to be resold, that
he had planted some cocoa-
-nut trees and had sunk
wells in the land at con-
-siderable cost, and that the
sale should be confirmed
in his favour. The Deputy Commr
thereupon ordered that the
matter had already been dis-
-posed of and nothing more
could be done (vide ~~page~~ 17-4-94)

⊗
The sale was held
on 23rd May 1894
vide 4 and 5 pages

4

Before the Government of *His Highness* the Maharaja of Mysore.

(8)

Appeal No. 34 of 1894-95

Appellant.	Vs.	Respondent.
Timmappa Gowda of Talikere Tirumakudalu Sub-Taluk by Mr K. T. Narasimiya Advocate		Srikanta.

Notice served. 14. 5. 95.

Decision.

These proceedings show a great laxity of procedure and want of decision on the part of the Deputy Amildar. He must be reprimanded for the dilatory manner in which he allowed these proceedings to be carried on.

If Timmabba Gowda made a default in paying either the deposit or the full amount of the sale the land ought to have been sold again forthwith. But the Deputy Amildar hesitated what to do and received the amount which was long after the due date from the Gowda and after

1

(General Serial No. 32.) 1894.

(2)

Filed 13

In time L.R. 106-941 No. 34

Stamp Sufficient

Name of Petitioner. Thimappa Gowda

Village. Halaphse

Taluk. Turuvekere

District. Tumkur

Date of Arri. 4-7-94

Date of Receipt. 5-7-94

Date of Disposal.

No. of Enclosures. three

ABSTRACT.

Appeals against the Deputy Commissioner's order, No: 182/2, dated 17-4-94, which is as follows:-

"It is clear from the Amildar's endorsement No: 247, dated 16-4-94 produced by you, that the case has been already disposed of here & so you may, after obtaining a copy of the order passed here, take further steps in the case if you like. Now nothing can be done here."

The petitioner urges,

1. That he darkhasted for dry land S. No: 15 of the above village in the Sub-Taluk Office

Pet'r purchased S. No 15 in auction sale. He paid neither the deposit nor the sale amount within the time allowed, because he was the first darkhastdar for the land and the land in consequence ought to have been given to him without a sale. He applied that the land be given to him on the sale cancelled.

The Dy Amildar received from him the sale amount on 2-94 and took a Muchulka & he was put in possession.

In the meanwhile the Dy appears to have ordered land to be resold on the ground that the purchase money was not paid by Pet'r in time. He & appears to have been accordingly sold.

The Amildar's endorsement 247 dated 16-4-94 referred the Dy Commr's order has been produced, Pet'r appeals against the order of resale.

Pet'r must produce copy of Dy Comm's order under which the 2nd sale took place as well as of the order confirming the 2nd sale. BH 8/8/94

fice on 4-7-92; that the Shanbhog
ubba Rao coming to know of this + intending
deprive petitioner of the said land,
arkhasted for the same land dating
falsely as 2nd July 1892; that Pet should acquire nothing
2. that the Shirastdar, intending to favour
this darkhast + took a crew & went to the land
sale, falsely reported that the land
contains two small trees + about 3084
sq. yds of hand-work; that this report
is inconsistant with the Shanbhog's
darkhast in which he certifies that
there are no trees on the said land;
3. that afterwards the land was sold in
a public sale in which he (petr) alone
bought it for Rs 357, but as the
Shirastdar's report was proved to be false,
he did not deposit anything nor did he pay the sale
without paying other deposits, sale
amount, but put in a takrar + prayed
that the same land may be confirmed
to him as he was the first darkhastdar;
4. that he represented the above matter
to the Deputy Commissioner, who,
without perusing the record asked
him to appeal to the higher authorities;
5. that he has spent Rs 250 for the improvement
of the land + has brought it under garden
cultivation by planting cocoanut trees
+ so the purchaser in the second
sale who purchased it for Rs 163 is a great
gainer while the petitioner is the loser;
6. that all his misfortunes are due to
a petition addressed by one of his enemies.
Prays that after the perusal of the records,
his first darkhast may be confirmed +
the orders of the Amildar + the Deputy
Commissioner, may be cancelled.

104

he thus received the amount
and confirmed his possession
the 2nd sale might have been
avoided. Govt are not prepared
to say that the D.J. Conway was wrong
in all following strictly the rules
laid down and ordering a second
sale basing his decision on the default
of Immaffa Sowda - Govt they cannot
overlook the fact that during all this
time Immaffa Sowda had the land
in his possession, having got it by
the Nyatinable procedure of
what the Dy Asst calls an yeksal
tenure. At the time of hearing, however
both the parties consented to an ar-
-rangement by which the sale to
Immaffa Sowda was to be confirmed,
the second sale to be set aside
the deposit money of that sale to be
returned and Immaffa Sowda
to pay, Soorama reasonable interest on this
deposit amount - Govt have
thought it proper to
accede to this arrangement
and accordingly direct
that Immaffa Sowda be confirmed
in possession of the land & that the deposit
amount paid by Soorama be returned to him
with such reasonable interest as the Dy Comr
may fix to be collected from Immaffa Sowda

To Colonel Rogers Sabel Esq
19.6.95 Kilinochchi

15

17-8-94

(3)

No.
34.

L. R. 106-94-2

By Order

Chief Secretary.

BCH

Gen. Serial No. 32.]

189

No. 1555

Name of Petitioner. Timmeyyada

Village. Talakere

Taluk. Turuvekere

District. Tumkur

Date of Arzi.

Date of Receipt. 4-12-94

Date of Disposal.

~~No.~~ of Enclosures. 8 Eight-

ABSTRACT.

With reference to Endorsement No 34 dated 8/17th August/94, petitioner produces the papers called for therein.

Deputy Commr order in connection with the 2nd sale ordered:—

" On failure to produce the deposit amount as required by column 23 of Section 20 of the Revenue Rules, the land ought to have been put up to auction again. ~~Failure to~~ this

to a mistake on the part of the Peikdar who conducted the sale. He is excused this time in consideration of his long service.

It is laid down in Col. 24 Section 20 of Revenue Rules that the full amount of purchase money should be paid within 5 days of the sale. In default of such production of the amount the land ought to have been again put up and sold agreeably to Govt notification No. 20579-92470 d/5/6/93. "Even now it should be done so"

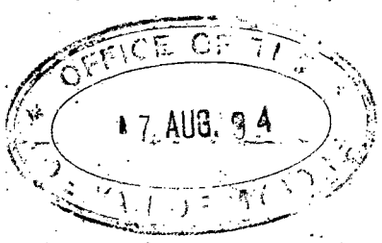
(2) Deputy Commr. order confirming the 2nd sale of Survey No 15 at Talakere:-

"The sale for Rs 160 is confirmed."

7/12/94.

Political Department
to papers
Received

No.
341.



[illegible]

[illegible]

[illegible]

Gen. Serial No. 31.]

9426

20

189 4-95 Pet 1423

(7)

From The Deputy Commr
Sirsi Canara District

To The Chief Secretary
to the Govt of Bombay.

L.R. 106-94-5

Dated 22nd
Despatched 23rd } January
Received 1895

Enclosures No. 2 files

General No. 631.
No.

His official Memo-
randum No. Pet: 1024 of
the 16th December 1894.

—"—

Submitting the
entire proceedings
connected with the
petition of Timmé
Gowda of Talkere
in the Sirsi Taluk.

—

Pet. Branch
24/1/95

No. 631
Enc: 2 files

Deputy Commissioner's Office,
Tumkur District.
Dated 22nd January 1895.

To

The Chief Secretary
to the Government of Mysore.

Sir,

As required in your Official Memorandum No. Cct: 1024 of the 16th December 1894, I have the honor to submit herewith the entire proceedings connected with the petition of Timmégowda of Talkéré in the Turuvékéré Sub Taluk, complaining of the sale of ½ Survey No. 15 in the village without its being granted to him although he was the first applicant.

2. The petitions with enclosures

Pet 1024

22-12-94

19

MYSORE DEWAN'S OFFICE.

PETITION DEPARTMENT.

OFFICIAL MEMORANDUM

The accompanying Petition No. 34 & 1588 dated 22nd Dec 94 received at the Dewan's Office from Tammiah Gowda S/o Subba, Tammiahpura Taluk, Tarikere complaining [illegible] is forwarded, together with the eleven enclosures to the [illegible] for [illegible] proceedings connected with Nerase [illegible]

2. The petition with the enclosures to be returned

By Order,

for Chief Secretary.

19-12-1894

23.

18/12 18/12

M.G.C.P.Bangalore.—8-5-94.—1,000.

2/4

Received with the official
Plans mentioned in the
herewith returned. ——

I have the honor to be,
Sir,
Your most obedient Servant,

Deputy Commissioner.

MYSORE DEWAN'S OFFICE.
PETITION DEPARTMENT.
REG'D. NO. 1114
DATE 6-7-94

27

5/12/94

34:

1 કરી આપ્યા — ૫ કિલો 12 કરી આપ્યા-

કિલો ઉપરાંત 26 ... ...

... ...

... ...

... ...

12 ... ...

... ...

... ...

... ...

... ... 4-7-94

(4)

27

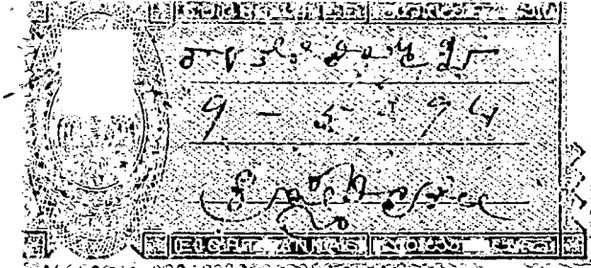
15/3/96

4-12-96

no 1555 21/12

Most welcome

LIBRARY WILD
3.r.c.c
TREVEKEHE



37

[illegible]

[illegible]

[illegible]

4

From

The Chief Secretary to the
Government of Mysore.

L.R. 106-94-B

To

Dated

Despatched

Received

General No.

No.

Enclosure No.

Proc^s of the Govt of Mysore

Read.

Petitions, registered Nos 34 and 15-5-5- dated 4th July and December 1894 from Timmappa Gowda of Tarikere, Tumkur Dist- Taluk, appealing against the Dy. Commrs order cancelling the sale to him of Survey No 15 in the village

2. The records connected with the case received with letter No 631 dated 22d January 1895 which show the facts of this case to be as follows:-

The appellant applied for a portion of a Survey number and subsequently another person for the whole of that number. The Deputy Amildar first ordered the grant to the latter but on another application by the appellant Timmappa for the whole number, granted it to him for Kandaya only. The land was again sold for Vijaya and Timmappa finally became the purchaser on 24th Nov^r 92; but he failed to pay the purchase money till 5th January 94. The deputy

Smithers, notwithstanding the objections of some others condoned the default and confirmed the sale, the petitioner having all along been in possession. The Deputy Commissioner reversed this order and directed the land to be resold. This was duly done and Swann became purchaser of it for Rs

Timmappa appealed against this order of sale by the Deputy Commr.

Order Memo dt. 27/5-7-95.

3 5-7-95.

These proceedings show a great laxity of procedure and want of decision on the part of the Deputy Collector. He must be reprimanded for the dilatory manner in which he allowed these proceedings to be carried on.

2 Of Timmappa Gowda made a deposit in favour either the deposit or the

US

hearing, however, both the parties consented to an arrangement by which the sale to Timmappa Gowda was to be confirmed, the second sale to be set aside, the deposit money of this sale to be returned, and Timmappa Gowda to pay Sooranna reasonable interest on this deposit amount. Government have thought it proper to accede to this arrangement and accordingly direct that Timmappa Gowda be confirmed in possession of the land, and that the deposit amount paid by Sooranna be returned to him with such reasonable interest as the Deputy Commr may fix to be collected from Timmappa Gowda

2 The records are returned

Red draft
(Council order)

5-7-99
Revenue Secretary

7/99 The Deputy Commr
Tumkur District

full amount of the sale, the land ought to have been sold again forthwith. But the Deputy Amildar hesitated what to do and received the amount which Timmappa Gowda paid long after the due date. After he had received the amount and confirmed his possession, the second sale might have been avoided. Government are not prepared to say that the deputy Tahsildar was wrong in following strictly the rules laid down and ordering a second sale, basing his decision on the default of Timmappa Gowda. But they cannot overlook the fact that during all this time, Timmappa Gowda had the land in his possession having got it by the objectionable procedure of what the Dy Amildar calls an Ekcal tenure. At the time of

(10)

L.R. 106-94-7